

### Subpart A—Scope of Rules; Definitions and General Provisions

#### § 386.1 Scope of rules in this part.

The rules in this part govern proceedings before the Assistant Administrator, who also acts as the Chief Safety Officer of the Federal Motor Carrier Safety Administration (FMCSA), under applicable provisions of the Federal Motor Carrier Safety Regulations (49 CFR parts 350-399), including the commercial regulations (49 CFR parts 360-379) and the Hazardous Materials Regulations (49 CFR parts 171-180). The purpose of the proceedings is to enable the Assistant Administrator to determine whether a motor carrier, property broker, freight forwarder, or its agents, employees, or any other person subject to the jurisdiction of the FMCSA, has failed to comply with the provisions or requirements of applicable statutes and the corresponding regulations and, if such violations are found, to issue an appropriate order to compel compliance with the statute or regulation, assess a civil penalty, or both.

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#### § 386.2 Definitions.

*Abate or abatement* means to discontinue regulatory violations by refraining from or taking actions identified in a notice to correct noncompliance.

*Administration* means the Federal Motor Carrier Safety Administration.

*Administrative adjudication* means a process or proceeding to resolve contested claims in conformity with the Administrative Procedure Act, 5 U.S.C. 554-558.

*Administrative law judge* means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105.

*Agency* means the Federal Motor Carrier Safety Administration.

*Agency Counsel* means the attorney who prosecutes a civil penalty matter on behalf of the Field Administrator.

*Assistant Administrator* means the Assistant Administrator of the Federal Motor Carrier Safety Administration. The Assistant Administrator is the Chief Safety Officer of the agency pursuant to 49 U.S.C. 113(e). Decisions of the Assistant Administrator in motor

carrier, broker, freight forwarder, and hazardous materials proceedings under this part are administratively final.

*Broker* means a person who, for compensation, arranges or offers to arrange the transportation of property by an authorized motor carrier. A motor carrier, or person who is an employee or bona fide agent of a carrier, is not a broker within the meaning of this section when it arranges or offers to arrange the transportation of shipments which it is authorized to transport and which it has accepted and legally bound itself to transport.

*Civil forfeiture proceedings* means proceedings to collect civil penalties for violations under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Chapter 313); the Hazardous Materials Transportation Act of 1975, as amended (49 U.S.C. Chapter 51); the Motor Carrier Safety Act of 1984 (49 U.S.C. Chapter 311, Subchapter III); section 18 of the Bus Regulatory Reform Act of 1982 (49 U.S.C. 31138); section 30 of the Motor Carrier Act of 1980 (49 U.S.C. 31139); and the ICC Termination Act of 1995 (49 U.S.C. Chapters 131-149).

*Civil penalty proceedings* means proceedings to collect civil penalties for violations of regulations and statutes within the jurisdiction of FMCSA.

*Claimant* means the representative of the Federal Motor Carrier Safety Administration authorized to make claims.

*Commercial regulations* means statutes and regulations that apply to persons providing or arranging transportation for compensation subject to the Secretary's jurisdiction under 49 U.S.C. Chapter 135. The statutes are codified in Part B of Subtitle IV, Title 49, U.S.C. (49 U.S.C. 13101 through 14913). The regulations include those issued by the Federal Motor Carrier Safety Administration or its predecessors under authority provided in 49 U.S.C. 13301 or a predecessor statute.

*Decisionmaker* means the Assistant Administrator of FMCSA, acting in the capacity of the decisionmaker or any person to whom the Assistant Administrator has delegated his/her authority in a civil penalty proceeding. As used in this subpart, the Agency decisionmaker is the official authorized to